

EXHIBIT 2

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FEDERAL HOME LOAN BANK OF
SEATTLE, a bank created by federal law,

Plaintiff,

v.

COUNTRYWIDE SECURITIES
CORPORATION, a California corporation;
CWALT, INC., a Delaware corporation;
COUNTRYWIDE FINANCIAL
CORPORATION, a Delaware corporation;
MERRILL LYNCH MORTGAGE
INVESTORS, INC., a Delaware corporation;
and MERRILL LYNCH MORTGAGE
CAPITAL, INC., a Delaware corporation,

Defendants.

No. 2:10-cv-00148-RSM

DECLARATION OF SARAH H.
CONCANNON IN SUPPORT OF
DEFENDANTS' CONSOLIDATED
OPPOSITION TO PLAINTIFF'S
OMNIBUS MOTION TO REMAND

I, SARAH HEATON CONCANNON, hereby declare:

1. I am an attorney duly licensed to practice law in the Commonwealth of Massachusetts with the law firm of Goodwin Procter LLP. My office is located at 53 State Street, Boston, Massachusetts 02109. I am one of the attorneys representing Defendants Bank of America Corporation, Banc of America Securities, LLC, Banc of America Funding Corporation, Countrywide Financial Corporation, Countrywide Securities Corporation, CWMB, Inc., CWALT, Inc., Merrill Lynch, Pierce, Fenner & Smith, Inc., Merrill Lynch

DECLARATION OF SARAH H. CONCANNON IN SUPPORT
OF DEFENDANTS' CONSOLIDATED OPPOSITION TO
PLAINTIFF'S OMNIBUS MOTION TO REMAND - 1
CASE NO. 2:10-cv-00148-RSM

LANE POWELL PC
1420 FIFTH AVENUE, SUITE 4100
SEATTLE, WASHINGTON 98101-2338
206.223.7000 FAX: 206.223.7107

1 Mortgage Investors, Inc., Inc., and Merrill Lynch Mortgage Capital, Inc. I submit this
 2 declaration in support of Defendants' Consolidated Opposition to Plaintiff's Omnibus Motion
 3 to Remand. Except where otherwise indicated, I have personal knowledge of the matters
 4 stated herein and if called upon to do so, I could and would testify thereto. The copies
 5 attached hereto are true and correct to the best of my knowledge.

6 2. Attached hereto as Exhibit A is a true and accurate copy of the Federal Home
 7 Loan Bank of Des Moines's ("FHLB Des Moines") Notice of Removal, Docket Item No. 1 in
 8 O'Connor Enterprises Group v. Spindustry Systems Inc., Civ. No. 4:09-CV-01483 (S.D. Tex.
 9 May 18, 2009). This document was attached as Exhibit C to UBS Securities' Notice of
 10 Removal, which was publicly filed in this Court on January 25, 2010 in Federal Home Loan
 11 Bank of Seattle v. UBS Securities LLC, et al., No. 2:10-CV-00146.

12 3. Attached hereto as Exhibit B is a true and accurate copy of FHLB Des
 13 Moines's Brief in Support of the Resistance to Motion to Remand, which was publicly filed
 14 on March 24, 2009 as Docket Item No. 7 in Ewing v. Federal Home Loan Bank of Des
 15 Moines, Civ. No. 4:09-cv-106 (S.D. Iowa 2009).

16 4. Attached hereto as Exhibit C is a true and accurate copy of FHLB Des
 17 Moines's Amended Notice of Removal, Docket Item No. 6 in Ewing v. Federal Home Loan
 18 Bank of Des Moines, Civ. No. 4:09-cv-106 (S.D. Iowa 2009). This document was attached as
 19 Exhibit D to UBS Securities' Notice of Removal, which was publicly filed in this Court on
 20 January 25, 2010 in Federal Home Loan Bank of Seattle v. UBS Securities LLC, et al., No.
 21 2:10-CV-00146.

22 5. Attached hereto as Exhibit D is a true and accurate copy of the United States
 23 District Court for the Southern District of Iowa's Order Denying the Plaintiff's Motion to
 24 Remand, which was publicly filed on April 8, 2009 as Docket Item No. 9 in Ewing v. Fed.
 25 Home Loan Bank of Des Moines, Civ. No. 4:09-cv-106 (S.D. Iowa 2009).

26
 DECLARATION OF SARAH H. CONCANNON IN SUPPORT
 OF DEFENDANTS' CONSOLIDATED OPPOSITION TO
 PLAINTIFF'S OMNIBUS MOTION TO REMAND - 2
 CASE NO. 2:10-cv-00148-RSM

LANE POWELL PC
 1420 FIFTH AVENUE, SUITE 4100
 SEATTLE, WASHINGTON 98101-2338
 206.223.7000 FAX: 206.223.7107


6. Attached hereto as Exhibit E is a true and accurate copy of the Federal Home Loan Bank of Seattle's ("FHLB Seattle") Certificate of Organization. This document was attached as Exhibit E to UBS Securities' Notice of Removal, which was publicly filed in this Court on January 25, 2010 in Federal Home Loan Bank of Seattle v. UBS Securities LLC, et al., No. 2:10-CV-00146.

7. Attached hereto as Exhibit F is a true and accurate copy of an excerpt from FHLB Seattle's Form 10-K, which was publicly filed with the Securities and Exchange Commission on March 22, 2010.

8. Attached hereto as Exhibit G is a true and accurate copy of the Member Directory posted on FHLB Seattle's website. This document was attached as Exhibit F to UBS Securities' Notice of Removal, which was publicly filed in this Court on January 25, 2010 in Federal Home Loan Bank of Seattle v. UBS Securities LLC, et al., No. 2:10-CV-00146.

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed at Boston, Massachusetts on this 24 day of April, 2010


Sarah Heaton Concannon

DECLARATION OF SARAH H. CONCANNON IN SUPPORT
OF DEFENDANTS' CONSOLIDATED OPPOSITION TO
PLAINTIFF'S OMNIBUS MOTION TO REMAND - 3
CASE NO. 2:10-cv-00148-RSM

LANE POWELL PC
1420 FIFTH AVENUE, SUITE 4100
SEATTLE, WASHINGTON 98101-2338
206.223.7000 FAX: 206.223.7107

CERTIFICATE OF SERVICE

Pursuant to RCW 9A.72.085, the undersigned certifies under penalty of perjury under the laws of the State of Washington, that on the 8th day of April, 2010, the document attached hereto was presented to the Clerk of the Court for filing and uploading to the CM/ECF system. In accordance with their ECF registration agreement and the Court's rules, the Clerk of the Court will send e-mail notification of such filing to the following person(s):

David J. Grais dgrais@graisellsworth.com, jwalker@graisellsworth.com

Leanne M. Wilson lwilson@graisellsworth.com

Matthew A Carvalho mcarvalho@yarmuth.com, dheinrich@yarmuth.com,
smeyer@yarmuth.com

Owen L. Cyrulnik ocyrulnik@graisellsworth.com, lwalczak@graisellsworth.com

Richard C Yarmuth yarmuth@yarmuth.com, kkennedy@yarmuth.com

Executed on 8th day of April, 2010, at Seattle, Washington.

s/ Leah S. Burrus

Leah S. Burrus

DECLARATION OF SARAH H. CONCANNON IN SUPPORT
OF DEFENDANTS' CONSOLIDATED OPPOSITION TO
PLAINTIFF'S OMNIBUS MOTION TO REMAND - 4
CASE NO. 2:10-cv-00148-RSM

LANE POWELL PC
1420 FIFTH AVENUE, SUITE 4100
SEATTLE, WASHINGTON 98101-2338
206.223.7000 FAX: 206.223.7107

EXHIBIT A

Case 4:09-cv-01483 Document 1 Filed in TXSD on 05/18/09 Page 1 of 9

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**O'CONNOR ENTERPRISE GROUP,
INC. d/b/a EPCGROUP.NET**

VS.

**SPINDUSTRY SYSTEMS
INCORPORATED d/b/a SPINDUSTRY
INTERACTIVE, INC. and THE
FEDERAL HOME LOAN BANK OF
DES MOINES**

§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. _____

NOTICE OF REMOVAL

Defendant, Federal Home Loan Bank of Des Moines alleges:

1. Defendant, Federal Home Loan Bank of Des Moines, ("FHLB") is the first-served defendant in a civil action commenced on April 16, 2009, pending in the One Hundred and Twenty-Fifth (125th) Judicial District Court of Harris County, Texas, located at 201 Caroline Street, 12th Floor, Houston, Texas, 77002; Cause No. 2009-23572 entitled *O'Connor Enterprise Group, Inc. d/b/a EPCGroup.net v. Spindustry Systems Incorporated d/b/a Spindustry Intereractive, Inc. and the Federal Home Loan Bank of Des Moines*.

A. The Court has original jurisdiction over this case under the Federal Home Loan Bank Act of 1932.

2. FHLB is a federal instrumentality or a federally chartered corporation established by act of Congress under the Federal Home Loan Bank Act of 1932. 12 U.S.C. §§1421, *et. seq.* Its corporate charter statute provides that it has the power "to sue and be sued, to complain and to defend, in any court of competent jurisdiction, State or Federal." 12 U.S.C. §1432(a). This language confers original subject matter jurisdiction in federal courts. *See, e.g., American Nat'l Red Cross v. S.G.*, 505 U.S. 247, 255 (1992); *Pirelli Armstrong Tire Corp. Retiree Med. Benefits*

Case 4:09-cv-01483 Document 1 Filed in TXSD on 05/18/09 Page 2 of 9

Trust v. Raines, 534 F.3d 779, 785 (D.C. Cir. 2008). Thus, the Court has original subject matter jurisdiction over this matter as long as FHLB is a party to it and for this reason should be removed to this Court.

B. The Court has diversity jurisdiction.

3. Service of Plaintiff's petition was first made on removing Defendant, FHLB, by serving this Defendant through the Texas Secretary of State on April 23, 2009. Plaintiff's Original Petition does not allege an amount in controversy. However, Plaintiff's lawsuit is based upon an alleged contract which provides for compensation of \$89,500. Though not specified, Plaintiff's claim for quantum meruit presumably seeks damages in a similar amount as representative of the fair and reasonable value of services allegedly performed. Plaintiff also seeks attorney's fees under Texas Civil Practice and Remedies Code Chapter 38. Therefore, this removal notice is timely filed, as it is filed within thirty (30) days of service of Plaintiff's pleading and "other paper" from which Defendant could ascertain the case is removable pursuant to 28 U.S.C. § 1446(b). The Plaintiff's Original Petition is the initial pleading setting forth the claim upon which the action is based. The following constitutes all of the process, pleadings, and orders served upon Defendant in this action:

- (a) Plaintiff's Original Petition,
- (b) Citation to FHLB

4. The action is a civil action of which this Court has original jurisdiction under Title 28 U.S.C. §1332, and is one which Defendant is entitled to remove to this Court pursuant to Title 28 U.S.C. §1441, in that the action is between citizens of different states. Plaintiff admits and alleges in its Original Petition that it is a Nevada corporation with its principal place of business in Houston, Texas; Defendant FHLB is a federal instrumentality created by Congress with its principal place of business in Iowa; and Defendant Spindustry Systems Incorporated d/b/a

Case 4:09-cv-01483 Document 1 Filed in TXSD on 05/18/09 Page 3 of 9

Spindustry Interactive, Inc. ("Spindustry") is an Iowa corporation with its principal place of business in Clive, Iowa. Therefore, Defendants are Iowa citizens; Plaintiff is a citizen of Nevada and Texas. The above entitled action involves a controversy which is wholly between citizens of different states and therefore subject to this Court's jurisdiction. Under 28 U.S.C. §1441(a), venue of the removed action is proper in this Court as the district and division embracing the place where the state action is pending.

5. All defendants in this matter have consented to this removal by and through their counsel. Filed simultaneously herewith is Defendant Spindustry's "Notice of Consent to Removal to Federal Court." (Ex. C).

6. The matter in controversy is believed to exceed the sum of Seventy-Five Thousand and No/100 Dollars (\$75,000.00), exclusive of interest and costs. This is based upon the Plaintiff's claim of damages resulting from the alleged non-payment for services performed under the purported contract that is the basis of Plaintiff's Original Petition. Plaintiff also seeks attorney's fees under Chapter 38 of the Texas Civil Practice and Remedies Code.

7. No jury was demanded by Plaintiff in the state court action. The state court action arises out of Plaintiff's allegation that it performed work for which it has not been paid and now attempts to recover those amounts from the defendants.

8. For the above reasons, FHLB prays this matter pending in the 125th Judicial District Court of Harris County, Texas, styled Cause No. 2009-23572; *O'Connor Enterprise Group, Inc. d/b/a EPCGroup.net v. Spindustry Systems Incorporated d/b/a Spindustry Intereractive, Inc. and the Federal Home Loan Bank of Des Moines*, be removed from that Court to this Court. FHLB will promptly give adverse parties written notice of the filing of this Notice of Removal as required by 28 U.S.C. §1446(d). FHLB will promptly file a copy of this Notice of

Case 4:09-cv-01483 Document 1 Filed in TXSD on 05/18/09 Page 4 of 9

Removal with the Harris County District Clerk, where the action is currently pending, also pursuant to 28 U.S.C. §1446(d).

Respectfully submitted,

By: /s/ Kevin D. Jewell

KEVIN D. JEWELL
Attorney-in-Charge
State Bar No. 00787769

OF COUNSEL:
CHAMBERLAIN, HRDLICKA, WHITE
WILLIAMS & MARTIN
JASON R. BERNHARDT
State Bar No. 24045488
1200 Smith Street, Suite 1400
Houston, TX 77002-4310
(713) 654-9630
(713) 658-2553 (fax)

ATTORNEYS FOR DEFENDANT
FEDERAL HOME LOAN BANK
OF DES MOINES

Case 4:09-cv-01483 Document 1 Filed in TXSD on 05/18/09 Page 5 of 9

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served on all counsel of record on this the ____ day of May, 2008 in the following manner:

Gregory V. Brown
Chevazz G. Brown
Jackson Walker, LLP
1401 McKinney, Suite 1900
Houston, Texas 77010
Attorneys for Plaintiff

- ☐ Via Certified Mail
☐ Via Regular Mail
☐ Via Hand Delivery
☒ Via Facsimile (713) 752-4221
☐ Via Courier _____

Joe E. Lea
McGinnis, Lochridge & Kilgore, LLP
600 Congress Avenue, Suite 2100
Austin, Texas 78701
Attorney for Defendant Spindustry

- ☐ Via Certified Mail
☐ Via Regular Mail
☐ Via Hand Delivery
☒ Via Facsimile (512) 505-6365
☐ Via Courier _____

/s/ Kevin D. Jewell
Kevin D. Jewell

Case 4:09-cv-01483 Document 1 Filed in TXSD on 05/18/09 Page 6 of 9

**INDEX OF DOCUMENTS FILED
WITH REMOVAL ACTION**

Exhibits:

- (a) Plaintiff's Original Petition,
- (b) Citation to FHLB
- (c) Defendant Spindustry Systems Incorporated's Notice of Consent to Removal to Federal Court
- (d) Docket Sheet (has been requested from court clerk - will supplement)
- (e) Civil Cover Sheet (has been requested from court clerk – will supplement)

Case 4:09-cv-01483 Document 1 Filed in TXSD on 05/18/09 Page 7 of 9

LIST OF ATTORNEYS/PARTIES

1. Gregory V. Brown
SBOT: 00793409
Chevazz G. Brown
SBOT: 24059498
Jackson Walker, LLP
1401 McKinney, Suite 1900
Houston, Texas 77010
(713) 752-4200
(713) 752-4221 - facsimile
ATTORNEYS FOR PLAINTIFF
2. Kevin D. Jewell
SBOT: 00787769
Jason R. Bernhardt
SBOT: 24045488
Chamberlain, Hrdlicka, White, Williams & Martin
1200 Smith Street, Suite 1400
Houston, Texas 77002
(713) 654-9630
(713) 658-2553 – facsimile
ATTORNEYS FOR DEFENDANT
THE FEDERAL HOME LOAN BANK
OF DES MOINES
3. Joe E. Lea
SBOT: 00787769
McGinnis, Lochridge & Kilgore, LLP
600 Congress Avenue, Suite 2100
Austin, Texas 78701
(512) 495-6065
(512) 505-6365 – facsimile
ATTORNEYS FOR DEFENDANT
SPINDUSTRY SYSTEMS INCORPORATED D/B/A
SPINDUSTRY INTERACTIVE, INC.

Case 4:09-cv-01483 Document 1 Filed in TXSD on 05/18/09 Page 8 of 9

LIST OF ATTORNEYS/PARTIES

1. Gregory V. Brown
SBOT: 00793409
Chevazz G. Brown
SBOT: 24059498
Jackson Walker, LLP
1401 McKinney, Suite 1900
Houston, Texas 77010
(713) 752-4200
(713) 752-4221 - facsimile
ATTORNEYS FOR PLAINTIFF
2. Kevin D. Jewell
SBOT: 00787769
Jason R. Bernhardt
SBOT: 24045488
Chamberlain, Hrdlicka, White, Williams & Martin
1200 Smith Street, Suite 1400
Houston, Texas 77002
(713) 654-9630
(713) 658-2553 – facsimile
ATTORNEYS FOR DEFENDANT
THE FEDERAL HOME LOAN BANK
OF DES MOINES
3. Joe E. Lea
SBOT: 00787769
McGinnis, Lochridge & Kilgore, LLP
600 Congress Avenue, Suite 2100
Austin, Texas 78701
(512) 495-6065
(512) 505-6365 – facsimile
ATTORNEYS FOR DEFENDANT
SPINDUSTRY SYSTEMS INCORPORATED D/B/A
SPINDUSTRY INTERACTIVE, INC.

Case 4:09-cv-01483 Document 1 Filed in TXSD on 05/18/09 Page 9 of 9

**INDEX OF DOCUMENTS FILED
WITH REMOVAL ACTION**

Exhibits:

- (a) Plaintiff's Original Petition,
- (b) Citation to FHLB
- (c) Defendant Spindustry Systems Incorporated's Notice of Consent to Removal to Federal Court
- (d) Docket Sheet (has been requested from court clerk - will supplement)
- (e) Civil Cover Sheet (has been requested from court clerk – will supplement)

Case 4:09-cv-01483 Document 1-1 Filed in TXSD on 05/18/09 Page 2 of 9

FHLB's business activities in Texas. The Texas Secretary of State may serve the FHLB through service upon its president or any officer of the FHLB at its home office or principal place of business: 801 Walnut Street, Suite 200, Skywalk Level, Des Moines, Iowa 50309.

4. Spindustry is an Iowa corporation with its principal place of business in Clive, Iowa. It may be served with service of process through its agent for service of process in Texas, the Texas Secretary of State pursuant to Chapter 17 of the Texas Civil Practice & Remedies Code as Spindustry has conducted business in Texas, but does not maintain an agent for service of process in Texas and this suit arises from Spindustry's business activities in Texas. The Texas Secretary of State may serve Spindustry through service upon its president or any officer at its home office or principal place of business: 1370 NW 114th Street, Suite 300, Des Moines, Iowa 50325 or through service upon its registered agent, Thomas M. Cunningham, at 700 Walnut Street, Suite 1600, Des Moines, Iowa 50309.

III. Jurisdiction and Venue

5. This Court has jurisdiction over this dispute as the amount in controversy greatly exceeds the jurisdictional minimum of this Court.

6. Venue is proper in Harris County pursuant to Texas Civil Practice & Remedies Code § 15.002 as Harris County is the county in which all or a substantial part of the facts giving rise to this suit arose.

IV. Factual Background

7. EPC is a technology and software consulting firm specializing in the implementation and integration of SharePoint Server ("SharePoint"), a Microsoft Office application. SharePoint is used to host internet or intranet websites, and allows businesses and organizations to facilitate collaboration, develop content-management features, and automate

Case 4:09-cv-01483 Document 1-1 Filed in TXSD on 05/18/09 Page 3 of 9

business processes. EPC helps these businesses and organizations implement and integrate SharePoint into their operations.

8. The FHLB is a federally-chartered corporation created under the authority of the Federal Home Loan Bank Act of 1932. The purpose of the FHLB, in part, is to provide cost-effective funding to its member banks for use in housing, community and economic development, to create homeownership opportunities for low and moderate income families and to serve as a source of liquidity for its member banks.

9. One of the FHLB's goals is to assist in financing housing projects through its Affordable Housing Program ("AHP"). On information and belief, the AHP allows an applicant or project "sponsor" who seeks funding for a housing or community development project to submit an application, whereupon the FHLB and member banks authenticate, review, and reject or approve the application based upon financial criteria determined by the FHLB.

10. In years prior, the AHP application process involved a long, complicated drudgery of paperwork which encumbered the loan process in bureaucratic red tape. The FHLB sought to streamline and improve the process by doing away with its outdated manual, paper-laden process and sought to use the efficiencies of modern technology in order to create a 21st century system. To that end, the FHLB hired EPC, a nationwide innovator and designer of SharePoint systems. EPC has been widely recognized for the quality of its SharePoint design services and has been recognized by Microsoft for the quality of its services. In fact, EPC's founder has authored books and papers on the implementation of SharePoint and is widely recognized as an expert in the field.

11. In or about January of 2008, the FHLB entered into a Statement of Work, wherein, through its agent and/or co-principal, Spindustry, it hired EPC to convert its manual

Case 4:09-cv-01483 Document 1-1 Filed in TXSD on 05/18/09 Page 4 of 9

AHP process to a fully automated, user-friendly system using SharePoint. The system would allow member banks and/or project sponsors to submit online applications for the purchase or rental of homes and would allow the FHLB and member banks to authenticate, review, and reject or approve applications online, thereby greatly increasing the efficiency of FHLB's system.

12. At a March 18, 2008 "project kick-off meeting," EPC project team members met with Spindustry and FHLB representatives to discuss an overview of the project and to gather preliminary specifications and requirements. A project plan was thereafter agreed upon and a completion date was set for September of 2008. Following the initial meeting, representatives of Spindustry and FHLB directed telephone calls, correspondence and other communications to EPC in Texas regarding the project. Furthermore, Spindustry and FHLB knew and anticipated that all or a substantial portion of the work relating to the project would be performed in Texas, as well as other locations in which EPC had SharePoint resources. EPC, at great time and expense, proceeded diligently to design and build the automated system in accordance with the Statement of Work, the project plan (via verbal and email directions from Defendants), and FHLB specifications and requirements.

13. After several weeks into the project, EPC had made substantial progress and was on schedule to complete the project by the specified date. However, in June of 2008, FHLB brought in a new project manager, and with him came a complete overhaul of the project's design, scope and direction. As a result, the design and functionality which EPC had created (and which the FHLB had agreed to and approved) required modification in order to comply with the new requirements not set forth in the scope of work agreed to by the parties. In effect, FHLB asked EPC to create and design an entirely new automated system in order to accommodate the last minute changes sought by the FHLB. Despite the eleventh hour changes,

Case 4:09-cv-01483 Document 1-1 Filed in TXSD on 05/18/09 Page 5 of 9

EPC worked diligently, accommodated these new demands and completed the modified project in or about January 2009, delivering a fully functional program.

14. Upon completion of the project, in accordance with the terms of the Statement of Work, as well as the newly revised requirements proposed by the FHLB and Spindustry at the last minute, EPC sought payment for its services. As is customary in the industry, EPC withheld delivery of the source code for the project pending payment, without which the FHLB could not fully deploy the system created by EPC.

15. The FHLB, through its agent and/or co-principal, Spindustry, contacted EPC and requested access to the source code prior to payment. When EPC stated that payment was required first, Spindustry, on behalf of itself and the FHLB, assured and guaranteed EPC (1) that if the source code were released, EPC would be paid; (2) that the FHLB was a billion dollar bank and was "good for the money"; and (3) that Spindustry would see to it that EPC would be paid. EPC, based upon those assurances, released the source code.

16. Yet, contrary to Spindustry's and the FHLB's representations, the FHLB is not "good for the money" and EPC has not been paid for the valuable services it performed for Spindustry and the FHLB. Although the FHLB claims that it is allegedly experiencing difficulties with the system, the FHLB has not, cannot and refuses to specify the alleged problems with the system designed and built by EPC. In fact, Spindustry has candidly admitted to EPC that it sees no reason why EPC has not been paid and believes that the bank's protests are without merit.

17. Further, based upon its investigation to date, the claims of alleged problems with the system are false, because, based upon information and belief, the FHLB has begun using the

Case 4:09-cv-01483 Document 1-1 Filed in TXSD on 05/18/09 Page 6 of 9

automated system notwithstanding its unjustified refusal to compensate EPC in accordance with the Statement of Work.

V. Causes of Action

BREACH OF CONTRACT

18. EPC incorporates herein paragraphs 7 through 17.

19. The FHLB has breached the Statement of Work, which is a valid and binding contract between the FHLB and EPC. Per the terms of the contract, EPC created, designed, and implemented an automated system in accordance with the scope of work, the original project plans, all modified project plans, and the FHLB's specifications and requirements. However, the FHLB has failed to perform under the terms of the contract in that it refuses to pay EPC for the services rendered. Such breach of contract has proximately caused substantial injury to EPC.

20. Alternatively, Spindustry, the co-principal and/or agent of the FHLB, has breached the Statement of Work, which is a valid and binding contract between EPC and Spindustry by failing to pay EPC for its services. Additionally, Spindustry has breached its promise to pay EPC for services rendered. Spindustry agreed to pay EPC for the work it performed pursuant to the Statement of Work. However, Spindustry refuses to pay EPC despite EPC having fully performed. Such breach has proximately caused EPC substantial injury.

NEGLIGENT MISREPRESENTATION

21. EPC incorporates herein paragraphs 7 through 17.

22. The FHLB negligently supplied EPC false information that it would pay EPC upon completion of the work it performed pursuant to the Statement of Work. It also supplied EPC false information that it would promptly pay EPC upon receipt of the source code. The FHLB failed to exercise reasonable care or competence in communicating such false

Case 4:09-cv-01483 Document 1-1 Filed in TXSD on 05/18/09 Page 7 of 9

information, and EPC justifiably relied on it. These negligent misrepresentations proximately caused EPC substantial injury and were made in the course of the FHLB's business or in a transaction in which it had a pecuniary interest.

23. Alternatively, Spindustry, the co-principal and/or agent of the FHLB, negligently supplied EPC false information that it (or the FHLB) would pay EPC for the services it provided pursuant to the Statement of Work. It also supplied EPC false information that it (or the FHLB) would promptly pay EPC upon receipt of the source code. Spindustry failed to exercise reasonable care or competence in communicating such false information, and EPC justifiably relied on it. These negligent misrepresentations proximately caused EPC substantial injury and were made in the course of Spindustry's business or in a transaction in which it had a pecuniary interest.

QUANTUM MERUIT AND UNJUST ENRICHMENT

24. EPC incorporates herein paragraphs 7 through 17.

25. In the alternative, EPC created, designed, and implemented an automated system for the benefit of the FHLB. In turn, the FHLB accepted EPC's services and, on information and belief, has begun using or intends to use the automated system in its AHP application process. The FHLB had reasonable notice that EPC expected to be compensated for the work it performed on the project. Therefore, EPC is entitled to the reasonable value of its services.

26. Additionally, the FHLB obtained EPC's services and the offspring of such services by the taking of an undue advantage. The FHLB will be unjustly enriched should it not be required to pay EPC.

Case 4:09-cv-01483 Document 1-1 Filed in TXSD on 05/18/09 Page 8 of 9

CONVERSION

27. EPC incorporates herein paragraphs 7 through 17.

28. Until EPC is paid, it owns and has the right to immediate possession of the automated system which it created and designed. Further, the automated system over which the FHLB wrongfully obtained and wrongfully exercises dominion or control is tangible intellectual property. Demand for its return is futile as the FHLB's acts amount to a clear repudiation of EPC's rights. EPC has suffered actual injury proximately caused by the FHLB's wrongful conversion of such property.

VI. Attorney's Fees

29. EPC is entitled to recover its reasonable and necessary attorney fees in prosecuting this action pursuant to Chapter 38 of the Texas Civil Practice & Remedies Code.

VII. Jury Demand

30. Plaintiff demands trial by jury and hereby tenders the required jury fee.

VIII. Prayer

WHEREFORE PREMISES CONSIDERED, EPC requests that Defendants be cited to appear and answer the allegations set forth, and that upon final trial or hearing, EPC recover judgment against Defendants for:

- a. actual damages in the full amount owed to EPC;
- b. attorney's fees and costs;
- c. prejudgment and post-judgment interest as allowed by law; and
- d. such further and other relief to which it may be entitled.

Case 4:09-cv-01483 Document 1-1 Filed in TXSD on 05/18/09 Page 9 of 9

Signed on this 16th day of April, 2009.

Respectfully submitted,

JACKSON WALKER L.L.P.

By: 

Gregory V. Brown
State Bar No. 00793409
Chevazz G. Brown
State Bar No. 24059498
1401 McKinney, Suite 1900
Houston, TX 77010
(713) 752-4200
(713) 752-4221 – Facsimile

ATTORNEYS FOR PLAINTIFF

Case 4:09-cv-01483 Document 1-2 Filed in TXSD on 05/18/09 Page 1 of 2

The State of Texas



Citations Unit
P.O. Box 12079
Austin, Texas 78711-2079

Phone: 512-463-5560
Fax: 512-463-0873
TTY (800) 735-2989
www.sos.state.tx.us

Secretary of State

April 28, 2009

Federal Home Loan Bank Of Des Moines
801 Walnut Street
Suite 200
Skywalk Lev
Des Moines, IA 50309

2009-165241-3
Include reference number in
all correspondence

RE: O Connor Enterprise Group Inc dba EPCGROUP.Net VS Spindustry Systems
Incorporated dba Spindustry Inc
125th Judicial District Court Of Harris County, Texas
Cause No: 200923572

Dear Sir/Madam,

Pursuant to the Laws of Texas, we forward herewith by CERTIFIED MAIL, return receipt requested, a copy of process received by the Secretary of State of the State of Texas on April 23, 2009.

CERTIFIED MAIL #71603901984813016780

Refer correspondence to:

Gregory V Brown
Jackson Walker
1401 McKinney Street
Suite 1900
Houston, TX 77010

Sincerely,

A handwritten signature in cursive script that reads "Helen Lupercio".

Helen Lupercio
Team Leader, Citations Unit
Statutory Documents Section

hl/vo
Enclosure



Case 4:09-cv-01483 Document 1-2 Filed in TXSD on 05/18/09 Page 2 of 2

CAUSE NO. 200923572

RECEIPT NO. 2148	0.00	ATY
04-16-2009		TR # 72400837
PLAINTIFF: O'CONNOR ENTERPRISE GROUP INC (DBA BPCGROUP.NET)	In The	125th
vs.	Judicial District Court	
DEFENDANT: SPINDUSTRY SYSTEMS INCORPORATED (DBA SPINDUSTRY IN	of Harris County, Texas	
	125TH DISTRICT COURT	
	Houston, TX	

CITATION (SECRETARY OF STATE)

THE STATE OF TEXAS
County of Harris

TO: FEDERAL HOME LOAN BANK OF DES MOINES BY SERVING THROUGH THE TEXAS
SECRETARY OF STATE OF TEXAS P O BOX 12079 AUSTIN TEXAS 78711 2079
FORWARD TO
801 WALNUT STREET SUITE 200 SKYWALK LEV DES MOINES IA 50309

Attached is a copy of PLAINTIFF'S ORIGINAL PETITION

This instrument was filed on the 16th day of April, 2009, in the above cited cause number and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED, You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation was issued on 17th day of April, 2009, under my hand and seal of said Court.

Issued at request of:
BROWN, GREGORY VANN
1401 MCKINNEY ST1900
HOUSTON, TX 77010
Tel: (713) 752-4200
Bar No.: 793409



LOREN JACKSON, District Clerk
Harris County, Texas
201 Caroline Houston, Texas 77002
(P.O. Box 4651, Houston, Texas 77210)

GENERATED BY: EASTLAND, KAREN FAY KSG9/IOJ/8380710

OFFICER/AUTHORIZED PERSON RETURN

Came to hand at _____ o'clock _____ .M., on the _____ day of _____, _____.

Executed at (address) _____ in

_____ County at _____ o'clock _____ .M., on the _____ day of _____,

_____, by delivering to _____ defendant, in person, a true copy of this Citation together with the accompanying _____ copy(ies) of the

attached thereto and I endorsed on said copy of the Citation the date of delivery.
To certify which I affix my hand officially this _____ day of _____, _____.

Fee: \$ _____

00165241-3

_____ of _____ County, Texas

Case 4:09-cv-01483 Document 1-3 Filed in TXSD on 05/18/09 Page 1 of 3

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

O'CONNOR ENTERPRISE GROUP, INC.
d/b/a EPCGROUP.NET

Plaintiff,

V.

SPINDUSTRY SYSTEMS
INCORPORATED d/b/a SPINDUSTRY
INTERACTIVE, INC., and THE FEDERAL
HOME LOAN BANK OF DES MOINES

Defendants.

CASE NO. _____

**DEFENDANT SPINDUSTRY SYSTEMS INCORPORATED'S NOTICE OF CONSENT
TO REMOVAL TO FEDERAL COURT**

Defendant Spindustry Systems Incorporated d/b/a Spindustry Interactive, Inc., files this consent to removal pursuant to 28 U.S.C. § 1446(b).

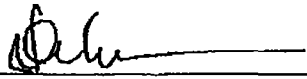
1. Plaintiff is O'Connor Enterprise Group, Inc. d/b/a EPCGroup.net. Defendant filing this consent is Spindustry Systems Incorporated ("Spindustry").
2. On April 16, 2009, plaintiff sued Spindustry and defendant The Federal Home Loan Bank of Des Moines in the 125th Judicial District Court, Harris County, for breach of contract, negligent misrepresentation, quantum meruit and unjust enrichment, and conversion.
3. Spindustry was served with by virtue of Plaintiff's service on the Texas Secretary of State on April 23, 2009.
4. On the same date as this filing, Monday, May 18, 2009, Spindustry's co-defendant, The Federal Home Loan Bank of Des Moines, filed its notice of removal to federal court.
5. Defendant Spindustry agrees with the notice of removal and consents to removal of this action to federal court.



Case 4:09-cv-01483 Document 1-3 Filed in TXSD on 05/18/09 Page 2 of 3

Respectfully submitted,

McGINNIS, LOCHRIDGE & KILGORE, L.L.P.
600 Congress Ave.
Suite 2100
Austin, Texas 78701
(512) 495-6000
(512) 495-6093 FAX

By: 
Joe. E. Lea
(Attorney-In-Charge)
State Bar No. 12082000
Southern District of Texas Bar No. 10089

Of Counsel:
McGINNIS, LOCHRIDGE & KILGORE, L.L.P.
Christopher J. Oddo
State Bar No. 24013257
Southern District of Texas Bar No. 27891
Scott S. Cooley
State Bar No. 00796394
Southern District of Texas Bar No. 27985
600 Congress Ave.
Suite 2100
Austin, Texas 78701
(512) 495-6000
(512) 495-6093 FAX

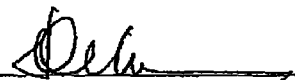
Case 4:09-cv-01483 Document 1-3 Filed in TXSD on 05/18/09 Page 3 of 3

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Defendant Spindustry Systems Incorporated d/b/a Spindustry Interactive, Inc.'s Consent to Removal, which has been sent to the following counsel of record by Facsimile and Certified Mail, Return Receipt Requested, on the 18th day of May, 2009.

Gregory V. Brown
Chevazz G. Brown
Jackson Walker L.L.P.
1401 McKinney, Suite 1900
Houston, Texas 77010
(713) 752-4200
(713) 752-4221 (Fax)

Kevin Jewell
Chamberlain Hrdlicka
1200 Smith St.
14th Floor
Houston, Texas 77002-4310
(713) 654-9620
(713) 658-2553



Joe E. Lea

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

<p>JON EWING,</p> <p>Plaintiff,</p> <p>v.</p> <p>FEDERAL HOME LOAN BANK OF DES MOINES, RICHARD SWANSON, NICHOLAS SPAETH, AND MICHAEL GUTTAU,</p> <p>Defendants.</p>	<p>No. 4:09-cv-106</p> <p>BRIEF IN SUPPORT OF RESISTANCE TO MOTION TO REMAND</p>
---	--

TABLE OF CONTENTS

BACKGROUND	2
ARGUMENT	2
I. Removal Is Proper Pursuant to 28 U.S.C. § 1441 Because the Court Has Subject Matter Jurisdiction Based on the Federal Home Loan Bank of Des Moines’s Corporate Charter, and Codefendants Swanson, Spaeth and Guttai Consent to Removal.	2
II. The Issue of Whether Removal Is Proper under 28 U.S.C. § 1442 Is Moot.....	7
CONCLUSION	7

Defendants Federal Home Loan Bank of Des Moines, Richard Swanson, Nicholas Spaeth, and Michael Gutttau submit this brief in support of their resistance to Plaintiff's motion to remand.

BACKGROUND

On March 11, 2009, Defendants Richard Swanson and Nicholas Spaeth removed this action to Federal Court. Defendants subsequently learned that Federal Home Loan Bank of Des Moines and Michael Gutttau had been served. The Court issued a Prescreening Order on March 12, 2009, expressing doubt as to whether it has subject matter jurisdiction over the case. Plaintiff filed a Motion to Remand on March 20, 2009. Defendants filed an Amended Notice of Removal on March 23, 2009, to reflect that Defendants Federal Home Loan Bank of Des Moines and Michael Gutttau had been served and to assert an alternate basis for removal under 28 U.S.C. § 1441.

ARGUMENT

I. Removal Is Proper Pursuant to 28 U.S.C. § 1441 Because the Court Has Subject Matter Jurisdiction Based on the Federal Home Loan Bank of Des Moines's Corporate Charter, and Codefendants Swanson, Spaeth and Gutttau Consent to Removal.

The Federal Home Loan Bank corporate charter statute, 12 U.S.C. § 1432, provides that once a Federal Home Loan Bank becomes a corporate entity, the bank will have power "to sue and be sued, to complain and to defend, in any court of competent jurisdiction, State or Federal." 12 U.S.C. § 1432(a). As discussed herein, this language from the corporate charter creates federal subject matter jurisdiction.

In *American National Red Cross v. S.G.*, 505 U.S. 247 (1992), the U.S. Supreme Court concluded the "sue and be sued" provision in the Red Cross's charter conferred original subject

matter jurisdiction in federal courts with regard to lawsuits involving the Red Cross as a party.¹ More specifically, the Supreme Court evaluated whether the Red Cross's removal of a state court tort case to federal court pursuant to 28 U.S.C. § 1441, contending that the court had jurisdiction under 36 U.S.C. § 2, was proper.

In *Red Cross*, the Supreme Court reviewed its prior decisions deciding jurisdictional issues relating to federally chartered corporations. In *Osborn v. Bank of the United States*, 22 U.S. (9 Wheat.) 738 (1824), the charter language at issue provided that the bank could “sue and be sued . . . in all State Courts having competent jurisdiction, and in any circuit court of the United States.” The Supreme Court concluded that such charter language constituted an express grant of federal jurisdiction over cases involving the bank. In reaching that decision, the Court distinguished an earlier case involving the bank's predecessor, *Bank of the United States v. Deveaux*, 9 U.S. (5 Cranch) 61 (1809). In *Deveaux*, the Court recognized that the charter referred only to “courts of record” and did not specify federal courts. The Supreme Court therefore held in *Deveaux* that the charter was inadequate to establish federal jurisdiction.

In *The Pacific Railroad Removal* cases, 115 U.S. 1 (1885), the Supreme Court held that the mere fact of federal incorporation pursuant to an Act of Congress creates federal jurisdiction over cases involving such corporations. Congress reacted to this decision by withdrawing federal jurisdiction based solely on a railroad's federal incorporation; moreover, in 1925, Congress limited the ability of a federally chartered corporation to invoke federal jurisdiction purely on the ground that it was federally chartered. *See* 28 U.S.C. § 1349.² As is discussed

¹ At the time the *Red Cross* case was decided, the statute containing the Red Cross charter 38 U.S.C. § 2, provided in pertinent part that the Red Cross “shall have . . . the power to sue and be sued in courts of law and equity, State or Federal, within the jurisdiction of the United States.”

² The predecessor to 28 U.S.C. § 1349 was enacted in 1925. *See* Act of Feb. 13, 1925, ch. 229, § 12, 43 Stat. 941.

herein, those enactments do not undermine the creation of federal jurisdiction under sue and be sued provisions of federal corporate charters.

Cases decided after *The Pacific Railroad Removal Cases* and the aforementioned enactments confirmed subject matter jurisdiction based upon appropriate federal corporate charter language is proper. In *Bankers Trust Co. v. Texas & Pacific Railway Co.*, 241 U.S. 295 (1916), the Supreme Court interpreted charter language that empowered a railroad to sue and be sued “in all courts of law and equity within the United States” but did not expressly refer to federal courts. *Id.* at 302. The Supreme Court held the charter language was comparable to that interpreted in *Deveaux*, and held that such general language did not create federal jurisdiction. *Id.* at 304-05.

In *D’Oench, Duhme & Co. v. Federal Deposit Insurance Corp.*, 315 U.S. 447 (1942), the Supreme Court concluded a federal charter authorizing the FDIC, a federal corporation, to sue or be sued “in any court of law or equity, State or Federal” was adequate to create federal jurisdiction. *Id.* at 455.

Red Cross recognized that all of these cases “support the rule that a congressional charter’s ‘sue and be sued’ provision may be read to confer federal court jurisdiction if, but only if, it specifically mentions the federal courts.” *Red Cross*, 505 U.S. at 255. The Supreme Court explained as follows:

The rule established in these cases makes it clear that the Red Cross charter’s “sue and be sued” provision should be read to confer jurisdiction. In expressly authorizing the organization to sue and be sued in federal courts, using language resulting in a “sue and be sued” provision in all relevant respects identical to one on which we based a holding of federal jurisdiction just five years before, the provision extends beyond a mere grant of general corporate capacity to sue, and suffices to confer federal jurisdiction.

Red Cross, 505 U.S. at 257.

Although Defendants have not been able to find a published decision analyzing whether the sue and be sued provision of the Federal Home Loan Bank corporate charter statute creates federal jurisdiction, a recent decision from a federal court of appeals analyzed comparable corporate charter language applicable to Fannie Mae, and held such language created federal jurisdiction. In *Pirelli Armstrong Tire Corp. Retiree Medical Benefits Trust v. Raines*, 534 F.3d 779 (D.C. Cir. 2008),³ the District of Columbia Circuit interpreted a sue and be sued clause from the statute enacting the federal corporate charter of Fannie Mae. The language at issue in that federal corporate charter statute states as follows:

Each of the bodies corporate named in Section 1717(a)(2) of this title shall have power . . . in its corporate name, to sue and to be sued, and to complain and to defend, in any court of competent jurisdiction, State or Federal

12 U.S.C. § 1723a(a).

The court applied *Red Cross* and concluded federal jurisdiction was proper because the Fannie Mae sue and be sued provision expressly refers to the federal courts in a manner similar to the *Red Cross* statute. *Pirelli*, 534 F.3d at 784. The court of appeals recognized the distinct language contained in the Fannie Mae sue and be sued clause; specifically, the court addressed the language “any court of competent jurisdiction, State or Federal.” *Id.* at 784. The court concluded, analyzing this particular language, that the statutory provision created federal subject matter jurisdiction in Fannie Mae cases. *Id.* at 785.⁴

³ In *Pirelli*, Fannie Mae shareholders brought a derivative action in federal court.

⁴ The court of appeals noted its decision was consistent with the majority of district courts deciding the question with regard to Fannie Mae since the *Red Cross* opinion, citing *Grun v. Countrywide Home Loans, Inc.*, 2004 WL 1509088, at *2 (W.D. Tex. July 1, 2004); *Connelly v. Federal Nat’l Mortgage Ass’n*, 251 F. Supp. 2d 1071, 1073 (D. Conn. 2003); *C.C. Port, Ltd. v. Davis-Penn Mortgage Co.*, 891 F. Supp. 371, 372 (N.D. Tex. 1994), affirmed, 58 F.3d 636 (5th Cir. 1995); *Peoples Mortgage Co. v. Federal Nat’l Mortgage Ass’n*, 856 F. Supp. 910, 917 (E.D. Pa.

More specifically, in analyzing the language, “of competent jurisdiction,” the court of appeals reasoned that the term was intended to mean as follows:

- (i) litigants in state courts of limited jurisdiction must satisfy the appropriate jurisdictional requirements, *see Osborn*, 22 U.S. (9 Wheat) at 817-18 (finding federal jurisdiction because of statute empowering a federal corporation “to sue and be sued . . . in all state courts having competent jurisdiction, and in any circuit court of the United States”);
- (ii) litigants, whether in federal or state court, must establish the court’s personal jurisdiction over the parties, *see Blackmar v. Guerre*, 342 U.S. 512, 516 (1952) (noting that a “court of competent jurisdiction” for purpose of hearing suits against civil service commissioners must be one that possessed personal jurisdiction over those commissioners; *see also United States v. Morton*, 467 U.S. 822, 828 (1984);
- (iii) litigants relying on the “sue-and-be-sued” provision can sue in federal district courts but not necessarily in all federal courts, *see Red Cross*, 505 U.S. at 256 n.8; *id.* at 267 (Scalia, J., dissenting); Brief of Petitioner at 30-31, *American National Red Cross v. S.G.*, 505 U.S. 247 (1992) (No. 91-594) (“it is obvious that the district courts are intended” to receive the jurisdiction conferred in “sue-and-be-sued” clauses);
- (iv) where the Tucker Act otherwise might funnel cases to the Court of Federal Claims, the federal district courts still possess jurisdiction, *see Ferguson v. Union National Bank*, 126 F.2d 753, 756 (4th Cir. 1942) (applying “of competent jurisdiction” language in 12 U.S.C. § 1702: “It could hardly have been intended by Congress that suits for over \$10,000 against the Administrator could be brought in any state court of general jurisdiction, but in the federal jurisdiction only in the Court of Claims . . .”).

Pirelli, 534 F.3d at 785 (internal citations omitted).⁵

1994). *Pirelli*, 534 F.3d at 785. The court of appeals noted there were two district court decisions reaching a contrary conclusion, *see Knuckles v. RBMG, Inc.*, 481 F. Supp. 2d 559, 563 (S.D.W.Va. 2007); *Federal Nat’l Mortgage Ass’n v. Sealed*, 457 F. Supp. 2d 41, 44-46 (D.D.C. 2006). The court of appeals stated it disagreed with these two district court opinions.

⁵ In *Pirelli*, the court of appeals also found significant the fact that in *Red Cross*, the United States as amicus curiae supporting the petitioner had argued that comparable “of competent jurisdiction” language established federal jurisdiction. *See* Brief for the United States as Amicus Curiae Supporting Petitioner at 5-6, *American National Red Cross v. S.G.*, 505 U.S. 247 (1992) (No. 91-594) (arguing the Supreme Court’s sue and be sued decisions “have

Like the Fannie Mae corporate charter language analyzed in *Pirelli*, the Federal Home Loan Bank corporate charter states in pertinent part that each Federal Home Loan Bank will have power “to sue and be sued, to complain and to defend, in any court of competent jurisdiction, State or Federal.” 12 U.S.C. § 1432(a). Removal under 28 U.S.C. § 1441 and 12 U.S.C. § 1432 is therefore sufficient to establish federal jurisdiction.

II. The Issue of Whether Removal Is Proper under 28 U.S.C. § 1442 Is Moot.

Defendants’ filing of the Amended Notice of Removal with an alternate basis for jurisdiction renders moot Plaintiff’s Motion to Remand, to the extent it addresses the basis for jurisdiction set forth in the March 11, 2009 Notice of Removal.

CONCLUSION

WHEREFORE, for the foregoing reasons, Defendants Federal Home Loan Bank of Des Moines, Richard Swanson, Nicholas Spaeth, and Michael Gutttau respectfully request that the Court deny Plaintiff’s Motion to Remand in its entirety.

/s/Frank Harty
 /s/Debra L. Hulett
 Nyemaster, Goode, West,
 Hansell & O’Brien, P.C.
 700 Walnut Street, Suite 1600
 Des Moines, Iowa 50309
 Telephone: 515-283-3100
 Facsimile: 515-283-8045
 Email: fharty@nyemaster.com
 Email: dlhulett@nyemaster.com

ATTORNEYS FOR DEFENDANTS

established a clear rule that congressional charters provide for original jurisdiction in the federal courts whenever they specifically grant a right to sue and be sued in federal courts”).

Certificate of Service

I hereby certify that on March 24, 2009, I presented the foregoing to the Clerk of the Court for filing and uploading into the ECF system, which will send notification of such filing to the following:

Roxanne Barton Conlin
Roxanne Conlin & Associates, P.C.
The Griffin Building
319 Seventh Street, Suite 600
Des Moines, Iowa 50309
Email: rconlin&roxanneconlinlaw.com

/s/ Debra L. Hulett

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

JON EWING, Plaintiff, v. FEDERAL HOME LOAN BANK OF DES MOINES, RICHARD SWANSON, NICHOLAS SPAETH, AND MICHAEL GUTTAU, Defendants.	No. 4:09-cv-106 AMENDED NOTICE OF REMOVAL
---	--

Defendants Federal Home Loan Bank of Des Moines, Richard Swanson, Nicholas Spaeth, and Michael Gutttau submit this Amended Notice of Removal to reflect service on all defendants and to assert an alternate basis for removal under 28 U.S.C. § 1441, and in support thereof state:

1. On January 6, 2009, this action was commenced against the Defendants in the Iowa District Court for Polk County, and was pending in that county captioned as *Jon Ewing v. Federal Home Loan Bank of Des Moines, Richard Swanson, Nicholas Spaeth, and Michael Gutttau*, Law No. CL111575.
2. A copy of the Original Notice is attached to the Amended Notice of Removal as Exhibit A and by this reference is incorporated herein.
3. A copy of the Petition at Law and Jury Demand is attached to the Amended Notice of Removal as Exhibit B and by this reference is incorporated herein.

4. A copy of Plaintiff's First Requests for Production of Documents served with the Original Notice and Petition at Law and Jury Demand is attached to the Amended Notice of Removal as Exhibit C and by this reference is incorporated herein.

5. A copy of Plaintiff's First Set of Interrogatories Provided to Defendants served with the Original Notice and Petition at Law and Jury Demand is attached to the Amended Notice of Removal as Exhibit D and by this reference is incorporated herein.

6. A copy of the Notice of Removal of Civil Action filed with the Iowa District Court in and for Polk County on March 11, 2009 is attached to the Amended Notice of Removal as Exhibit E and by this reference is incorporated herein.

7. Service of the Original Notice and Petition at Law and Jury Demand was effected on Defendant Richard Swanson on February 24, 2009.

8. Service of the Original Notice and Petition at Law and Jury Demand was effected on Defendant Nicholas Spaeth on March 10, 2009.

9. Service of the Original Notice and Petition at Law and Jury Demand was effected on Defendant Michael Gutttau on March 3, 2009.

10. Service of the Original Notice and Petition at Law and Jury Demand was effected on Defendant Federal Home Loan Bank of Des Moines on March 3, 2009.

11. There have been no further proceedings in the Iowa District Court for Polk County in this case.

12. This action is a civil action arising out of the Plaintiff's past employment with the Federal Home Loan Bank of Des Moines. Plaintiff has pled a violation of the Iowa Civil Rights Act, Iowa Code ch. 216, as well as a claim under Iowa Code ch. 729.

13. Defendant Federal Home Loan Bank of Des Moines is a federal instrumentality organized under the Federal Home Loan Bank Act, 12 U.S.C. §§ 1421, *et seq.*

14. As a federally chartered entity, Defendant Federal Home Loan Bank of Des Moines is subject to the “sue and be sued” clause of the statute enacting the federal corporate charter for Federal Home Loan Banks. 12 U.S.C. § 1432. The statute confers federal subject matter jurisdiction over cases in which a Federal Home Loan Bank such as the Federal Home Loan Bank of Des Moines is a party. 12 U.S.C. § 1432; *see also American National Red Cross v. S.G.*, 505 U.S. 247, 257 (1992); *Pirelli Armstrong Tire Corp. Retiree Medical Benefits Trust v. Raines*, 534 F.3d 779, 788 (D.C. Cir. 2008).

15. This action may therefore be removed to this Court pursuant to 28 U.S.C. § 1441 without regard to the citizenship or residence of the parties.

16. Defendants Richard Swanson, Nicholas Spaeth, and Michael Gutttau hereby consent to the removal.

17. This Amended Notice of Removal is filed with the Court within 30 days after service of the Original Notice and Petition at Law and Jury Demand on Defendants.

18. A copy of the Amended Notice of Removal is being filed in the Iowa District Court for Polk County.

THEREFORE, Defendants Richard Swanson, Nicholas Spaeth, Federal Home Loan Bank of Des Moines, and Michael Gutttau give notice that the above-entitled action is removed from the Iowa District Court for Polk County to this Court.

/s/Frank Harty
/s/Debra L. Hulett
Nyemaster, Goode, West,
Hansell & O'Brien, P.C.
700 Walnut Street, Suite 1600
Des Moines, Iowa 50309
Telephone: 515-283-3100
Facsimile: 515-283-8045
Email: fharty@nyemaster.com
Email: dlhulett@nyemaster.com
ATTORNEYS FOR DEFENDANTS

Certificate of Service

I hereby certify that on March 23, 2009, I presented the foregoing to the Clerk of the Court for filing and uploading into the ECF system, which will send notification of such filing to the following:

Roxanne Barton Conlin
Roxanne Conlin & Associates, P.C.
The Griffin Building
319 Seventh Street, Suite 600
Des Moines, Iowa 50309
Email: rconlin&roxanneconlinlaw.com

/s/ Debra L. Hulett

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

JON EWING,

Plaintiff,

v.

FEDERAL HOME LOAN BANK OF
DES MOINES; RICHARD SWANSON;
NICHOLAS SPAETH; and
MICHAEL GUTTAU,

Defendants.

*

*

*

*

*

*

*

*

*

*

*

*

*

*

4:09-cv-106

ORDER

On January 6, 2009, Plaintiff filed a Petition in state court against Defendants alleging age and race discrimination, in violation of the Iowa Code.¹ Defendant Nicholas Spaeth filed a Notice of Removal on March 11, 2009, alleging that removal of the action is proper pursuant to 28 U.S.C. § 1442(a). Clerk's No. 1. On March 12, 2009, this Court entered a pre-screening order, wherein it expressed concern as to whether subject matter jurisdiction over this case is proper under § 1442(a). Clerk's No. 2. The Court ordered Defendant Spaeth to file a brief addressing the Court's concerns by March 25, 2009. *Id.*

On March 20, 2009, Plaintiff filed a Motion to Remand the case to state court, essentially echoing the Court's concerns about the propriety of subject matter jurisdiction under § 1442(a). On March 23, 2009, Defendant Spaeth filed an Amended Notice of Removal which asserts an

¹ Plaintiff's Petition asserts two Counts: 1) race and age discrimination under Iowa Code Chapter 216.6 and 2) violation of Iowa Code Chapter 729.4. The Court notes that Iowa Code § 729.4 is a criminal statute, providing that any "employer . . . convicted of a violation of subsection 1 [discriminating in the employment of individuals because of race, religion, color, sex, national origin, or ancestry] . . . shall be guilty of a simple misdemeanor."

alternative basis for removal, namely that Defendant Federal Home Loan Bank is subject to the “sue and be sued” clause of the statute enacting its federal corporate charter, and that removal is therefore proper under 28 U.S.C. § 1441(b). On March 24, 2009, Defendant Spaeth filed a resistance to the Motion to Remand, asserting that the motion is moot in light of the Amended Notice of Removal. Clerk’s No. 7.

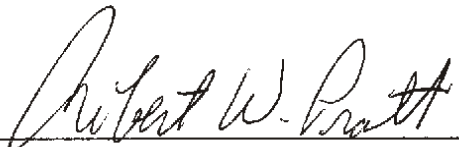
Title 28, United States Code § 1441(b) provides that “[a]ny civil action of which the district courts have original jurisdiction founded on a claim or right arising under the . . . laws of the United States shall be removable without regard to the citizenship of the parties.” The federal statute governing the incorporation of Federal Home Loan Bank provides that, upon meeting the requirements to become a “body corporate,” Federal Home Loan Bank became empowered to “sue and be sued, to complain and defend, in any court of competent jurisdiction, State or Federal.” 12 U.S.C. § 1432(a). The United States Supreme Court has interpreted nearly identical language as sufficient to sustain original jurisdiction in federal court. *See American Nat’l Red Cross v. S.G.*, 505 U.S. 247, 257 (1992) (“In expressly authorizing the organization to sue and be sued in federal courts . . . the provision extends beyond a mere grant of general corporate capacity to sue, and suffices to confer federal jurisdiction.”).

Accordingly, the Court is convinced that the present action is properly removable pursuant to 28 U.S.C. § 1441(b) because Defendant Federal Home Loan Bank is a federally chartered entity under the Federal Home Loan Bank Act, 12 U.S.C. § 1421 et seq., that is entitled to sue and be sued in federal court.² Subject matter jurisdiction over the case is, therefore, appropriate and Plaintiff’s Motion to Remand (Clerk’s No. 5) is DENIED as moot.

² In an e-mail to the Court and opposing counsel, dated April 7, 2009, Plaintiff concedes that “the ground stated in the amendment is in fact a proper ground for federal jurisdiction.”

IT IS SO ORDERED.

Dated this ____8th____ day of April, 2009.



ROBERT W. PRATT, Chief Judge
U.S. DISTRICT COURT

EXHIBIT E

Exhibit 3.1

EXHIBIT B to Federal Home Loan
Bank Board Resolution No. 17,677,
dated December 31, 1963.

ORGANIZATION CERTIFICATE
THE FEDERAL HOME LOAN BANK OF
SPOKANE

The undersigned directors of the Federal Home Loan Bank of Spokane, all of whom are citizens of the United States and bona fide residents of the district in which this Bank is located, having been appointed by the Federal Home Loan Bank Board:

NOW, THEREFORE, pursuant to the Act of Congress known as the Federal Home Loan Bank Act, approved July 22, 1932, as amended, this Organization Certificate is made and executed.

1. The title of this Bank shall be the FEDERAL HOME LOAN BANK OF SPOKANE.
2. The location of the principal office of this Bank shall be in the City of Spokane, State of Washington, or at such other city as the Federal Home Loan Bank Board may from time to time determine.
3. This Bank shall be established in the City of Spokane, State of Washington, in District Number 12, as defined by the Federal Home Loan Bank Board, or as may from time to time be adjusted or modified by said Board. Said District Number 12 as now defined is as follows:
The States of Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming, and Guam.
4. This Bank shall engage in the business authorized by said Act, and it shall exercise such powers as are permitted or prescribed by said Act, subject to the supervision of the Federal Home Loan Bank Board.
5. This Certificate is made for the purpose of carrying out the provisions of the Act aforesaid and such other Acts as may be passed by Congress amending or supplementing said Act, in so far as it or they may be applicable to the Federal Home Loan Bank of Spokane, and is subject to such changes or additions, not inconsistent with law, as the Federal Home Loan Bank Board may deem necessary or expedient and may from time to time direct.
6. This Bank shall have succession until dissolved by the Federal Home Loan Bank Board under the Federal Home Loan Bank Act, as amended, or by further Act of Congress.

EXHIBIT F

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM 10-K

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2009

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

Commission File No.: 000-51406

FEDERAL HOME LOAN BANK OF SEATTLE

(Exact name of registrant as specified in its charter)

Federally chartered corporation
(State or other jurisdiction of
incorporation or organization)

91-0852005
(I.R.S. Employer
Identification No.)

1501 Fourth Avenue, Suite 1800, Seattle, WA
(Address of principal executive offices)

98101-1693
(Zip Code)

Registrant's telephone number, including area code: (206) 340-2300

Securities registered pursuant to Section 12(b) of the Act: None
Title of Each Class: None

Securities registered pursuant to Section 12(g) of the Act:
Class B Common Stock, \$100 par value per share
(Title of class)

Name of Each Exchange on Which Registered:
N/A

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☐ No ☒

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☒

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☐
Non-accelerated filer ☒

Accelerated filer ☐
Smaller reporting company ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act.) Yes ☐ No ☒

Registrant's stock is not publicly traded and is only issued to members of the registrant. Such stock is issued and redeemed at par value, \$100 per share, subject to certain regulatory and statutory limits. As of June 30, 2009, the aggregate par value of the shares of capital stock of the registrant was \$2,793,326,000. As of February 28, 2010, Seattle Bank had outstanding 1,588,642 shares of its Class A capital stock and 26,373,842 shares of its Class B capital stock.

We could become liable for all or a portion of the consolidated obligations of any or all of the FHLBanks.

Although we are primarily liable for the allocated portion of consolidated obligations issued on our behalf by the Office of Finance, we also are jointly and severally liable with the other 11 FHLBanks for the payment of principal and interest on all of the consolidated obligations of the FHLBank System. The Finance Agency, at its discretion, may require any FHLBank to make the principal or interest payments due on any FHLBank's consolidated obligation, even in the absence of a default of an FHLBank, allocating the liability among one or more FHLBanks on a pro rata basis or on any other basis. Although no FHLBank has ever defaulted on a consolidated obligation and the joint and several requirements have never been invoked, we could incur significant liability beyond our primary obligations due to the failure of other FHLBanks to meet their obligations if the Finance Agency decided to make us liable for another FHLBank's consolidated obligations. Any such liability would negatively affect our financial condition and results of operations, as well as further limit our ability to pay dividends or repurchase or redeem our member capital stock.

In addition, in 2006, the FHLBanks entered into an agreement where in the event that one or more FHLBanks does not fund its principal and interest payments under a consolidated obligation by deadlines agreed upon by the FHLBanks, the other FHLBanks will be responsible for those payments as described in the agreement. Although no FHLBank has failed to timely fund its principal and interest payments since the agreement was put into place, we could incur increased short-term borrowing costs if we should be required to participate in making such payments under the agreement.

ITEM 1B. UNRESOLVED STAFF COMMENTS

Not applicable.

ITEM 2. PROPERTIES

We currently occupy 46,872 square feet of leased space at our headquarters in Seattle, Washington. Our total leased space at this location is 91,374 square feet under a 10-year lease, which expires in April 2013. In December 2006, we executed a sublease for 21,430 square feet of unused space at our headquarters beginning on April 1, 2007 and expiring on April 30, 2013. In March 2007, we executed a sublease for an additional 7,406 square feet of unused office space at our headquarters beginning on November 1, 2007 and expiring on April 30, 2013, and in October 2008, we executed a sublease for an additional 15,666 square feet of unused office space at our headquarters expiring on April 30, 2013. We lease 2,920 square feet of space at a second location in the Seattle area, as a disaster recovery facility, under a 10-year lease, which expires in February 2013, and 250 square feet of space as a recovery data center in Spokane, Washington, which expires in July 2013.

EXHIBIT G

Federal Home Loan Bank Seattle

[Home](#) | [Our Company](#) | [Membership](#) | [Member Directory](#)
MEMBER DIRECTORY

Membership

- [Member Directory](#)
- [Eligibility Requirements](#)

Seattle Bank members are listed below according to their charter state. Members may have branches affiliates in other states; for more information please consult the member's Web site.

-- Select a State --

Leadership

Financial Highlights

Corporate Governance

Business Continuity

Employment

News

Events

Holiday Schedule

Alaska

[Alaska Pacific Bank](#) Juneau
[Alaska USA Federal Credit Union](#) Anchorage
[Credit Union 1](#) Anchorage
[Denali Alaskan Federal Credit Union](#) Anchorage
[Denali State Bank](#) Fairbanks
[First Bank](#) Ketchikan
[First National Bank Alaska](#) Anchorage
[Mt. McKinley Bank](#) Fairbanks
[Northrim Bank](#) Anchorage
[Spirit of Alaska Federal Credit Union](#) Fairbanks
[Tongass Federal Credit Union](#) Ketchikan

American Samoa

[Amerika Samoa Bank](#) Pago Pago

Guam

[ANZ Guam, Inc.](#) Hagatna
[Bank of Guam](#) Hagatna
[BankPacific](#) Hagatna
[Community First Guam FCU](#) Hagatna
[Coast360 Federal Credit Union](#) Maite

Hawaii

[Aloha Pacific Federal Credit Union](#) Honolulu
[American Savings Bank, F.S.B.](#) Honolulu
[Bank of Hawaii](#) Honolulu
[Central Pacific Bank](#) Honolulu
[Finance Factors, Limited](#) Honolulu
[First Hawaiian Bank](#) Honolulu
[Hawaii Community Federal Credit Union](#) Kailua-Kona
[Hawaii Federal Credit Union](#) Honolulu
[Hawaii National Bank](#) Honolulu
[Hawaii Schools Federal Credit Union](#) Honolulu
[Hawaii State Federal Credit Union](#) Honolulu
[HawaiiUSA Federal Credit Union](#) Honolulu
[Pacific Rim Bank](#) Honolulu
[Territorial Savings Bank](#) Honolulu
[Wailuku Federal Credit Union](#) Wailuku
[West Oahu Community Federal Credit Union](#) Kalaheo

Idaho

[bank cda](#) Coeur d'Alene
[Bank of Idaho](#) Idaho Falls
[Bank of Commerce](#) Ammon
[Citizens Community Bank](#) Pocatello
[D. L. Evans Bank](#) Burley
[East Idaho Credit Union](#) Idaho Falls
[Farmers National Bank of Buhl](#) Buhl
[First Bank of Idaho, F.S.B.](#) Ketchum
[First Federal Savings Bank of Twin Falls](#) Twin Falls
[Home Federal Bank](#) Nampa
[Idaho Banking Company](#) Boise
[Idaho Central Credit Union](#) Chubbuck
[Idaho First Bank](#) McCall
[Idaho Independent Bank](#) Coeur d'Alene
[Idaho Trust National Bank](#) Boise
[Ireland Bank](#) Malad City
[Mountain West Bank](#) Coeur d'Alene

Panhandle State Bank Sandpoint
Potlatch No. 1 Federal Credit Union Lewiston
Syringa Bank Boise
United Heritage Life Insurance Company Meridian
Western Capital Bank Boise

Montana

1st Bank Sidney
1st Liberty Federal Credit Union Great Falls
American Bank Bozeman
American Federal Savings Bank Helena
Bank of Baker Baker
Bank of Bozeman Bozeman
Bank of Bridger, N.A. Bridger
Bank of Montana Missoula
Bank of the Rockies, N.A. White Sulphur Springs
Basin State Bank Stanford
Belt Valley Bank Belt
Big Sky Western Bank Bozeman
Bitterroot Valley Bank Lolo
Citizens Bank & Trust Company Big Timber
Citizens State Bank of Choteau Choteau
Community Bank Ronan
Community Bank-Missoula Missoula
Dutton State Bank Dutton
Farmers State Bank Victor
First Bank of Montana, Inc. Lewiston
First Boulder Valley Bank Boulder
First Citizens Bank of Butte Butte
First Citizens Bank of Polson Polson
First Community Bank Glasgow
First Interstate Bank Billings
First Madison Valley Bank Ennis
First Montana Bank Missoula
First National Bank of Fairfield Fairfield
First Security Bank Bozeman
First Security Bank of Deer Lodge Deer Lodge
First Security Bank of Malta Malta
First Security Bank of Missoula Missoula
First State Bank of Forsyth Forsyth
First Valley Bank Seeley Lake
Flathead Bank of Bigfork Bigfork
Flint Creek Valley Bank Phillipsburg
Gateway Community FCU Missoula
Glacier Bank Kalispell
Glacier Bank of Whitefish Whitefish
Independence Bank Havre
Lake County Bank St. Ignatius
Manhattan Bank Manhattan
Missoula Federal Credit Union Missoula
Montana First Credit Union Missoula
Montana State Bank Plentywood
Mountain West Bank of Kalispell, N.A. Kalispell
Mountain West Bank, N.A. Helena
Pioneer Federal Savings and Loan Association Dillon
Ravalli County Bank Hamilton
Rocky Mountain Bank Billings
Ruby Valley National Bank Twin Bridges
State Bank & Trust Company Dillon
State Bank of Townsend Townsend
Stockman Bank of Montana Miles City
Summit Credit Union Billings
Three Rivers Bank of Montana Kalispell
Treasure State Bank Missoula
United Bank, N.A. Absarokee
Valley Bank Glasgow
Valley Bank of Helena Helena
Valley Bank of Kalispell Kalispell
Valley Bank of Ronan Ronan
Valley Federal Credit Union of Montana Billings
West One Bank Kalispell
Western Bank of Wolf Point Wolf Point
Western Security Bank Billings
Whitefish Credit Union Association Whitefish
Yellowstone Bank Laurel

Oregon

Advantis Credit Union Milwaukie
Albina Community Bank Portland
Bank of America Oregon, N.A. Portland
Bank of Eastern Oregon Heppner
Bank of Oswego Lake Oswego
Bank of the Cascades Bend
Capital Pacific Bank Portland
Centerpointe Community Bank Hood River
Central Willamette Community Credit Union Albany
Century Bank Eugene
Chetco Federal Credit Union Harbor
Citizens Bank Corvallis
Clackamas County Bank Sandy
Clatsop Community Bank Seaside
Columbia Community Bank Hillsboro
Columbia River Bank The Dalles
Commerce Bank of Oregon Portland
Community Bank Joseph
Community First Bank Prineville
Evergreen Federal Savings and Loan Association Grants Pass
First Federal Savings and Loan Association of McMinnville McMinnville
First Technology Credit Union Beaverton
High Desert Bank Bend
Home Valley Bank Cave Junction
Lewis & Clark Bank Oregon City
LibertyBank Eugene
Marion and Polk Schools Credit Union Salem
MBank Gresham
Northwest Bank Lake Oswego
Northwest Community CU Springfield
OnPoint Community Credit Union Portland
O.S.U. Federal Credit Union Corvallis
Oregon Coast Bank Newport
Oregon Community Credit Union Eugene
Oregon Dental Service Portland
Oregon First Community Credit Union Coquille
Oregon Pacific Banking Company Florence
Pacific Continental Bank Eugene
Pacific Crest Federal Credit Union Klamath Falls
Pacific West Bank West Linn
Pacific NW Federal Credit Union Portland
People's Bank of Commerce Medford
Point West Credit Union Portland
PremierWest Bank Medford
Rogue Federal Credit Union Medford
SELCO Community Credit Union Eugene
Silver Falls Bank Silverton
Siuslaw Bank Florence
SOFCU Community CU Grants Pass
South Valley Bank & Trust Klamath Falls
St. Helens Community Federal Credit Union St. Helens
Summit Bank Eugene
TLC Federal Credit Union Tillamook
Umpqua Bank Roseburg
Unitus Community Credit Union Portland
Wauna Federal Credit Union Clatskanie
West Coast Bank Lake Oswego
Willamette Community Bank Albany
Willamette Valley Bank Salem

Utah

America West Bank Inc. Layton
American Bank of Commerce Provo
America First Credit Union Riverdale
Bank of American Fork American Fork
Bank of Utah Ogden
Barnes Banking Company Kaysville
Beehive Credit Union Salt Lake City
BMW Bank of North America Salt Lake City
Cache Valley Bank Logan
Capital Community Bank Provo
Capmark Bank Salt Lake City
Celtic Bank Corporation Salt Lake City
Centennial Bank, Inc. Ogden
Central Bank Provo

CIT Bank Salt Lake City
Deseret First Credit Union Salt Lake City
Escrow Bank USA Salt Lake City
First National Bank of Layton Layton
First National Bank of Morgan Morgan
First Utah Bank Salt Lake City
Franklin Templeton Bank & Trust, F.S.B. Salt Lake City
Frontier Bank, FSB Park City
Goldenwest Credit Union Ogden
Gunnison Valley Bank Gunnison
Heritage Bank St. George
Home Savings Bank Salt Lake City
Jordan Federal Credit Union Sandy
Lewiston State Bank Lewiston
Liberty Bank Salt Lake City
Merrill Lynch Bank USA Salt Lake City
Morgan Stanley Bank West Valley City
Mountain America Federal Credit Union West Jordan
Mountain High Federal Credit Union Spanish Fork
Proficio Bank Salt Lake City
Republic Bank, Inc. Bountiful
Security National Life Insurance Company Salt Lake City
SouthWest Community Federal Credit Union St. George
State Bank of Southern Utah Cedar City
SummitOne Credit Union Ogden
SunFirst Bank St. George
TransWest Credit Union Salt Lake City
University First FCU Salt Lake City
USU Charter Federal Credit Union Logan
Utah Central Credit Union Salt Lake City
Utah Community Federal Credit Union Provo
Utah First Federal Credit Union Salt Lake City
Village Bank St. George
Weber State Federal Credit Union Ogden
Wells Fargo Bank Northwest, N.A. Salt Lake City
Western Community Bank Orem
Woodlands Commercial Bank Salt Lake City
Wright Express Financial Serv. Corp. Salt Lake City
Zions First National Bank Salt Lake City

Washington
1st Security Bank of Washington Mountlake Terrace
America's Credit Union, a Federal Credit Union Fort Lewis
American Marine Bank Bainbridge Island
AmericanWest Bank Spokane
Anchor Bank Aberdeen
Baker Boyer National Bank Walla Walla
Bank of Bellevue Bellevue
Bank of Clark County Vancouver
Bank of Everett Everett
Bank of Fairfield Fairfield
Bank of Tacoma Tacoma
Bank of the Pacific Aberdeen
Bank of Washington Lynnwood
Bank of Whitman Colfax
Banner Bank Walla Walla
Boeing Employees' Credit Union Tukwila
Business Bank Burlington
Cascade Bank Everett
Cashmere Valley Bank Cashmere
Central Valley Bank Toppenish
Charter Bank Bellevue
City Bank Lynnwood
Coastal Community Bank Everett
Columbia Community Credit Union Vancouver
Columbia State Bank Tacoma
Commencement Bank Tacoma
Commerce Bank of Washington, N.A. Seattle
Community First Bank Kennewick
Cowlitz Bank Longview
Eastside Commercial Bank, N.A. Bellevue
EvergreenBank Seattle
Fife Commercial Bank Fife
First Federal Savings and Loan Association of Port Angeles Port Angeles
First Heritage Bank Snohomish
First Independent Bank Vancouver

First Savings Bank Northwest Renton
First Sound Bank Seattle
Fortune Bank Seattle
Foundation Bank Bellevue
Frontier Bank Everett
GESA Credit Union Richland
Global Credit Union Spokane
Golf Savings Bank Mountlake Terrace
Group Health Credit Union Seattle
Harborstone Credit Union Tacoma
Heritage Bank Olympia
HomeStreet Bank Seattle
HomeTown National Bank Inc. Longview
Horizon Credit Union Spokane
Industrial Credit Union of Whatcom County Bellingham
Inland Northwest Bank Spokane
iQ Credit Union Vancouver
Islanders Bank Friday Harbor
Issaquah Community Bank Issaquah
Kitsap Bank Port Orchard
Kitsap Credit Union Bremerton
Lacamas Community Credit Union Camas
Mountain Pacific Bank Everett
MountainCrest Credit Union Arlington
North Cascades National Bank Chelan
North Coast Credit Union Bellingham
North County Bank Arlington
Northwest Commercial Bank Lakewood
NorthWest Plus Credit Union Everett
Numerica Credit Union Spokane
O Bee Credit Union Tumwater
Old Standard Life Insurance Company Spokane Valley
Olympia Federal Savings and Loan Association Olympia
Our Community Credit Union Shelton
Pacific Crest Savings Bank Lynnwood
Pacific International Bank Seattle
Peninsula Community Federal Credit Union Shelton
Peoples Bank Lynden
Pierce Commercial Bank Tacoma
Plaza Bank Seattle
Prevail Credit Union Seattle
Prime Pacific Bank, N.A. Lynnwood
Puget Sound Bank Bellevue
Rainier Pacific Bank Tacoma
Raymond Federal Bank Raymond
Red Canoe Credit Union Longview
Regal Financial Bank Seattle
Riverview Community Bank Vancouver
School Employees Credit Union of Washington Seattle
Seattle Bank Seattle
Seattle Metropolitan Credit Union Seattle
Security State Bank Centralia
ShoreBank Pacific Ilwaco
Shoreline Bank Shoreline
Sound Banking Company Tacoma
Sound Community Bank Seattle
Sound Credit Union Tacoma
South Sound Bank Olympia
Spokane Teachers Credit Union Liberty Lake
State Bank Northwest Spokane
Sterling Savings Bank Spokane
Summit Bank Mt. Vernon
TAPCO Credit Union Tacoma
Thurston First Bank Olympia
Timberland Bank Hoquiam
Twin City Bank Longview
TwinStar Credit Union Olympia
UniBank Lynnwood
Valley Bank Puyallup
Venture Bank Lacey
Verity Credit Union Seattle
Viking Bank Seattle
Washington Business Bank Olympia
Washington Federal Savings Seattle
Washington First International Bank Seattle
Washington Trust Bank Spokane

Watermark Credit Union Seattle
Western United Life Assurance Company Spokane Valley
Westside Community Bank University Place
Westsound Bank Bremerton
Whatcom Educational Credit Union Bellingham
Wheatland Bank Davenport
Whidbey Island Bank Oak Harbor
Yakima Federal Savings and Loan Association Yakima
Yakima National Bank Yakima
Yakima Valley Credit Union Yakima

Wyoming
1st Bank Evanston
Bank of Commerce Rawlins
Bank of Jackson Hole Jackson
Bank of Star Valley Afton
Bank of Wyoming Thermopolis
Big Horn Federal Savings Bank Greybull
Buffalo Federal Savings Bank Buffalo
Central Bank & Trust Lander
Cheyenne State Bank Cheyenne
Cheyenne-Laramie County Employees Federal Credit Union Cheyenne
Cowboy State Bank Ranchester
First Federal Savings Bank Sheridan
First National Bank and Trust Powell
First National Bank of Buffalo Buffalo
First National Bank of Wyoming Laramie
First State Bank Wheatland
Hilltop National Bank Casper
Jonah Bank of Wyoming Casper
Lusk State Bank Lusk
Oregon Trail Bank Guernsey
Pinnacle Bank - Wyoming Torrington
Rawlins National Bank Rawlins
Rock Springs National Bank Rock Springs
Rocky Mountain Bank Wilson
Security First Bank Cheyenne
Security State Bank Basin
State Bank Green River
Summit National Bank Hulett
Tri-County Bank Cheyenne
UniWyo Federal Credit Union Laramie
Warren Federal Credit Union Cheyenne
Western Vista Federal Credit Union Cheyenne
Wyoming Bank & Trust Cheyenne
Wyoming National Bank Riverton